

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WISCONSIN**

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In re:

CRAPP FARMS PARTNERSHIP

Debtor.

Chapter 11

Case No. 3-17-11601-cjf

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**DEBTOR'S MOTION FOR INTERIM AND FINAL ORDERS (A) AUTHORIZING USE  
OF CASH COLLATERAL AND (B) GRANTING ADEQUATE PROTECTION**

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Crapp Farms Partnership, d/b/a Crapp Farms, d/b/a Crapp Land, d/b/a Crapp Excavating and d/b/a Crapp Farms Trucking, the debtor and debtor in possession herein (the "Debtor"), makes this motion under 11 U.S.C. §§ 361 and 363(c), Federal Rules of Bankruptcy Procedure 4001(b)(1) and 9014, for the entry of an order (i) authorizing Debtor to use cash collateral; (ii) granting adequate protection; (iii) setting a hearing on the motion to consider the entering of an interim order authorizing and approving the use of Cash Collateral pending a final hearing on the motion; and (iv) setting a final hearing on this motion. The facts and circumstances supporting this Motion are set forth below. This Motion is further supported by the Declaration of Darrell C. Crapp in Support of First Day Motions (the "Crapp Declaration").

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to hear this motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. This Court is the proper venue for this motion under 28 U.S.C. §§ 1408 and 1409.

**BACKGROUND**

3. On May 3, 2017 (the "Petition Date"), the Debtor commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtor is authorized to continue to

operate its business and manage its property as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. No request for appointment of a chapter 11 trustee has been made and, as of the date hereof, no official committee has been appointed.

5. The Debtor's primary source of income is the proceeds it receives from its livestock, trucking and excavating operations. The Debtor has no other substantial source of income upon which it can rely to continue its operations.

6. Over the years, to fund its farming operations, Crapp Farms has entered into numerous loan transactions with its primary secured lender, BMO Harris, N.A. ("BMO"). The loan documents include mortgages granting BMO a first lien on Crapp Farms' real property containing approximately 2,210 acres along with improvements. BMO also has a valid lien on all of Crapp Farms' real estate, farm equipment, crops and other personal property and interests, as more particularly described on the Collateral Description attached to the Crapp Declaration and incorporated therein by reference as Exhibit 1.

7. As of the petition date, the Debtor estimates the aggregate outstanding indebtedness on the BMO loans is approximately \$28,886,000.00, consisting of numerous promissory notes and other loan transactions.

8. In order to maintain its operations during this reorganization and meet its ordinary business expenses, the Debtor must have immediate access to and the use of its cash collateral. The Debtor has attached to this motion proposed budgets for the use of cash collateral. The line items in the budgets include the normal, ordinary course of business expenses of each operating arm of the Debtor, including employee wages and related withholdings. Copies of the budgets are attached hereto collectively as **Exhibit A.**

9. BMO likely also asserts that harvested crops, including corn, currently being held pending sale by Crapp Farms constitute its cash collateral. Historically and on an annual basis, the Debtor holds back from sale approximately 200,000 bushels of harvested corn from its cropping operations to feed its livestock. In addition, the Debtor also historically sets aside from sale shelled corn, hay, corn silage, earlage, and haylage from its cropping operations for use as feed to its livestock (collective, the “Corn Silage”).

10. In order to specifically maintain its livestock operations, the Debtor also seeks authority to be allowed to hold back from sale approximately 90,000 bushels of harvested corn, and be allowed to retain and use, as necessary during any such interim period as this Court orders, the harvested corn and the Corn Silage as feed for its livestock. The Debtor anticipates that over a sixty-day period, it will use approximately 34,000 bushels of the harvested corn.

11. If the Debtor is not permitted to use cash collateral, the harvested corn, and the Corn Silage, the Debtor will be seriously harmed and may need to close down its operations. Moreover, the going concern value of this enterprise will be lost to the detriment of all creditors and the estate.

12. This motion is intended to provide the Debtor with access to Cash Collateral, the harvested corn, and the Corn Silage on an interim basis and to allow the Debtor and BMO an opportunity to meet without jeopardizing the Debtor’s ongoing operations. The Debtor believes that it should be granted the use of the Cash Collateral because BMO is adequately protected as is evidenced by value of BMO’s collateral as indicated in the Crapp Declaration.

13. In addition, BMO’s interest in the cash collateral will be adequately protected as the Debtor shall provide BMO with a replacement lien, and shall keep all of BMO’s collateral insured.

14. The Debtor shall also commence making monthly adequate protection payments to BMO in the amount of \$20,000.00, and shall provide the payment to BMO immediately upon the entry of the Interim Order, and continuing on or before the 10th day of each subsequent month while the Interim or Final Orders remain in effect. The amount of the proposed adequate protection payment is equal to the combined approximate value of the Debtors' personal property collateral consisting of livestock and equipment at Four Percent (4%) interest, amortized over three (3) years for the livestock and five (5) years for the equipment.

15. "There is an inherent tension between a debtor's need to use its cash to continue operating and a secured creditor's right to preserve its security interest in the debtor's cash proceeds." *In re ProAlert LLC*, 314B.R. 436, 441 (BAP 9th Cir. 2004). The requirement of adequate protection in section 363 balances those divergent interests "by allowing the debtor to use cash collateral while ensuring that the creditor will ultimately receive the full value of the collateral." *Id.*

16. Under section 363(c)(2)(B), the court has the power to authorize the use of cash collateral when "the court, after notice and a hearing, authorizes such use . . . in accordance with the provisions of [section 363]." 11 U.S.C. § 363(c)(2)(B). In particular, section 363(e) specifies that the Court shall condition the use of secured property "as is necessary to provide adequate protection of such interest." 11 U.S.C. § 363(e).

17. Under section 361, adequate protection may be provided by periodic cash payments, or replacement liens, or relief constituting the "indubitable equivalent" of the creditor's interest. 11 U.S.C. § 361. Courts have also recognized that when the value of the collateral available to the secured lender exceeds the amount of the secured claim, the excess value or "equity cushion," without more, will adequately protect the secured lender's interest.

*See, e.g., In re Shaw Industries, Inc.*, 300 B.R. 861, 865 (Bankr. W.D. Pa. 2003) (“The existence of an equity cushion alone can constitute adequate protection.”). The adequate protection offered need only “encompasses the decline in the value of the collateral only, rather than perpetuating the ratio of the collateral to the debt.” *See In re Delta Resources, Inc.*, 54 F.3d 722, 729-30 (11th Cir. 1995).

18. The relief requested will permit the Debtor to operate while adequately protecting BMO. Therefore, this motion seeks authority to use Cash Collateral in this manner through and including June 30, 2017, or until such other time as this Court may order.

**WHEREFORE**, Crapp Farms Partnership requests that this Court enter an order: (i) authorizing Debtor to use the Cash Collateral; (ii) granting adequate protection; (iii) setting a hearing on the motion to consider the entering of an interim order authorizing and approving the use of Cash Collateral pending a final hearing on the motion; and (iv) setting a final hearing on the Debtor’s use of cash collateral during this case.

Dated this 5 day of May, 2017.

**Krekeler Strother, S.C.**

By: 

Kristin J. Sederholm, State Bar No. 1001895

Eliza M. Reyes, State Bar No. 1030764

Jennifer M. Schank, State Bar No. 1077110

*Proposed Attorneys for the Debtor in Possession,  
Crapp Farms Partnership*

2901 West Beltline Hwy, Suite 301  
Madison, WI 53713  
Phone: 608-258-8555  
Fax: 608-258-8299  
[ksederholm@ks-lawfirm.com](mailto:ksederholm@ks-lawfirm.com)  
[ereyes@ks-lawfirm.com](mailto:ereyes@ks-lawfirm.com)  
[jschank@ks-lawfirm.com](mailto:jschank@ks-lawfirm.com)

**EXHIBIT A**

**CRAPP FARMS 2017  
LIVESTOCK BUDGET  
6 Month**

Revenue	Budget						6 Month Calculated Total	Budget		Year End Calculated Total
	5/1/2017	6/1/2017	7/1/2017	8/1/2017	9/1/2017	10/1/2017		11/1/2017	12/1/2017	
<b>Revenue</b>										
Resale of Purchased Livestock										
Purch Hogs Sold	148,382	169,492	211,866	360,247	889,987	148,382	1,038,369			
Trucking Hogs to Market	(3,120)	(3,640)	(4,680)	(7,800)	(19,240)	(3,120)	(22,360)			
Purch Cattle Sold	471,478	369,852	350,980	346,528	1,538,838	359,114	412,902	2,310,854		
Trucking Beef to Market	(7,924)	(6,216)	(6,104)	(6,188)	(26,432)	(6,356)	(40,096)			
Resale of Purchased Livestock Total	608,816	655,852	652,062	652,062	2,383,153	498,020	3,286,767			
Revenue Total	608,816	655,852	652,062	652,062	2,383,153	498,020	3,286,767			
<b>Cost Of Goods Sold</b>										
Cost of Purchased Livestock Sold	42,150	43,350	42,150	43,350	256,500	42,150	340,800			
Feeders -90# Calves	36,750	42,000	50,260	52,500	168,000	52,500	257,250			
Mean Pigs-12# Piglets	87,816	50,260	87,816	50,260	276,152	87,816	414,228			
Cattle Grower Gain	166,716	85,350	92,410	131,166	144,910	80,100	1,012,278			
Cost of Purchased Livestock Sold Total	5,400	5,400	5,400	5,400	32,400	5,400	43,200			
<b>Bedding Cost</b>										
Bedding Supply-Produced & Purchased	21,000	21,000	21,000	21,000	126,000	21,000	168,000			
Bedding Cost Total	11,400	11,400	11,400	11,400	68,400	11,400	91,200			
<b>Feed and Supplement Cost</b>										
Complete Feed	14,700	14,700	14,700	14,700	88,200	14,700	117,600			
Distillers	65,000	65,000	65,000	65,000	390,000	65,000	520,000			
Feed Additives	5,300	5,300	5,300	5,300	31,800	5,300	42,400			
Feed Corn Shelled-Produced & Purchased	8,700	8,700	8,700	8,700	52,200	8,700	69,600			
Feed Hay-Produced & Purchased	21,000	21,000	21,000	21,000	126,000	21,000	168,000			
Feed Soybean Meal	4,400	4,400	4,400	4,400	26,400	4,400	35,200			
Feed Meds	2,800	2,800	2,800	2,800	16,800	2,800	22,400			
Feed Corn Silage-Produced	2,700	2,700	2,700	2,700	16,200	2,700	21,600			
Feed Earlage-Produced	2,500	2,500	2,500	2,500	15,000	2,500	20,000			
Feed Haylage-Produced	1,300	1,300	1,300	1,300	7,800	1,300	10,400			
Feed Preparation	10,000	10,000	10,000	10,000	60,000	10,000	80,000			
Feed Gluten	170,800	170,800	170,800	170,800	1,024,800	170,800	1,366,400			
Feed and Supplement Cost Total	342,916	261,550	268,610	307,366	321,110	256,300	2,421,878			
Cost Of Goods Sold Total	265,900	(95,698)	95,026	244,696	19,230	96,147	864,889			
<b>Gross Margin</b>										
Gross Margin	265,900	(95,698)	95,026	244,696	19,230	96,147	864,889			
<b>Expenses</b>										
Labor Expense	15,000	15,000	15,000	15,000	90,000	15,000	120,000			
Labor Wages	15,000	15,000	15,000	15,000	90,000	15,000	120,000			
Labor Expense Total	4,000	4,000	4,000	4,000	24,000	4,000	32,000			
Fuel Expense	150	150	150	150	900	150	1,200			
Fuel Diesel	4,150	4,150	4,150	4,150	24,900	4,150	33,200			
Fuel Gas	2,280	2,280	2,280	2,280	13,680	2,280	18,240			
Fuel Expense Total										
Insurance Expense										
Livestock Insurance										

Insurance Expense Total	2,280	2,280	2,280	2,280	2,280	2,280	13,680	2,280	2,280	18,240
Marketing Expense										
Checkoff	844	844	844	844	844	844	5,064	844	844	6,752
Commission	1,491	1,491	1,491	1,491	1,491	1,491	8,946	1,491	1,491	11,928
Marketing Insurance	710	710	710	710	710	710	4,260	710	710	5,680
Marketing Expense Total	3,045	3,045	3,045	3,045	3,045	3,045	18,270	3,045	3,045	24,360
Repair / Maintenance Expense										
Repair Equipment	2,050	2,050	2,050	2,050	2,050	2,050	12,300	2,050	2,050	16,400
Repair / Maintenance Expense Total	2,050	2,050	2,050	2,050	2,050	2,050	12,300	2,050	2,050	16,400
Supplies Expense										
General Supplies	2,915	2,915	2,915	2,915	2,915	2,915	17,490	2,915	2,915	23,320
Supplies Expense Total	2,915	2,915	2,915	2,915	2,915	2,915	17,490	2,915	2,915	23,320
Utilities Expense										
Electric & Phone	1,115	1,115	1,115	1,115	1,115	1,115	6,690	1,115	1,115	8,920
LP Fuel - Hog Facility	1,970	1,970	1,970	1,970	1,970	1,970	11,820	1,970	1,970	15,760
Utilities Expense Total	3,085	3,085	3,085	3,085	3,085	3,085	18,510	3,085	3,085	24,680
Animal Health Expense										
Animal Health Pharmaceuticals	15,700	15,700	15,700	15,700	15,700	15,700	94,200	15,700	15,700	125,600
Animal Health Expense Total	15,700	15,700	15,700	15,700	15,700	15,700	94,200	15,700	15,700	125,600
Veterinary Services Expense										
Veterinary Services	175	375	1,150	350	800	800	3,650	800	800	5,250
Veterinary Services Expense Total	175	375	1,150	350	800	800	3,650	800	800	5,250
Contract Production Expense										
Contract Yardage	10,600	10,600	10,600	10,600	10,600	10,600	63,600	10,600	10,600	84,800
Contract Production Expense Total	10,600	10,600	10,600	10,600	10,600	10,600	63,600	10,600	10,600	84,800
Expenses Total	59,000	59,200	59,975	59,175	59,625	59,625	356,600	59,625	59,625	475,850
Net Income From Operations	206,900	(154,898)	35,051	185,521	(40,395)	36,522	268,701	79,729	40,609	389,039

				Budget	Budget	Budget	Budget	Budget	Budget	
CRAPP FARMS TRUCKING				5/1/2017	6/1/2017	7/1/2017	8/1/2017	9/1/2017	10/1/2017	Calculated
2017 Cash Flow Budget				5/31/2017	6/30/2017	7/31/2017	8/31/2017	9/30/2017	10/31/2017	Total
- Revenue										
- Gross Receipts or Sales										
		Custom Work		215,000	215,000	215,000	121,000	159,000	305,000	1,230,000
Gross Receipts or Sales Total				215,000	215,000	215,000	121,000	159,000	305,000	1,230,000
Revenue Total				215,000	215,000	215,000	121,000	159,000	305,000	1,230,000
- Expenses										
- Labor Expense										
		Labor Benefits Medical Expense		238	125	178	432	1,247	178	2,398
		Labor Health Insurance		700	700	700	700	700	700	4,200
		Labor Insurance Life		188	188	188	188	188	188	1,128
		Labor Vacation Pay		0	660	228	490	799	0	2,177
		Labor Wages		69,472	52,998	53,294	65,714	58,800	115,336	415,614
Labor Expense Total				70,598	54,671	54,588	67,524	61,734	116,402	425,517
- Benefits Expense										
		Labor Benefits Pension		998	1,052	754	1,162	953	1,644	6,563
Benefits Expense Total				998	1,052	754	1,162	953	1,644	6,563
- Payroll Taxes										
		Payroll tax expense		4,555	3,990	5,004	4,211	5,468	7,828	31,056
		Suta tax expense		0	0	1,264	0	0	414	1,678
Payroll Taxes Total				4,555	3,990	6,268	4,211	5,468	8,242	32,734
- Fuel Expense										
		Fuel Expense		9,062	45,925	45,817	61,376	46,760	81,512	290,452
Fuel Expense Total				9,062	45,925	45,817	61,376	46,760	81,512	290,452
- Insurance Expense										
		Insurance - Liability		457	457	457	457	457	457	2,742
		Insurance - Vehicle		5,812	5,643	5,643	5,790	5,712	12,435	41,035
		Insurance - Worker's Comp		3,498	3,498	3,498	3,498	3,498	3,498	20,988
Insurance Expense Total				9,767	9,598	9,598	9,745	9,667	16,390	64,765
- Marketing Expense										
		Marketing		85	85	85	85	85	85	510
Marketing Expense Total				85	85	85	85	85	85	510
- Professional Services Expense										
		Professional Other Services		4,749	1,743	4,086	4,851	3,829	5,377	24,635
Professional Services Expense Total				4,749	1,743	4,086	4,851	3,829	5,377	24,635
- Rent / Lease Expense (Veh.Mach.& Equipment)										
		Lease Expense <i>Daimler</i>		25,931	25,931	25,931	25,931	25,931	25,931	155,586
Rent / Lease Expense (Veh.Mach.& Equipment) Total				25,931	25,931	25,931	25,931	25,931	25,931	155,586
- Repair / Maintenance Expense										
		Repairs		10,000	10,000	10,000	10,000	10,000	10,000	60,000
Repair / Maintenance Expense Total				10,000	10,000	10,000	10,000	10,000	10,000	60,000
- Supplies Expense										
		Supplies - General		3,000	3,000	3,000	3,000	3,000	3,000	18,000
		Supplies - Office		200	200	200	200	200	200	1,200
Supplies Expense Total				3,200	3,200	3,200	3,200	3,200	3,200	19,200
- Utilities Expense										

	Utilities			565	565	565	565	565	565	3,390
	Utilities Expense Total			565	565	565	565	565	565	3,390
-	Interest Expense-Other									
	Interest Expense			1,806	1,535	1,390	1,949	1,398	1,350	9,428
	Interest Service Charge			77	365	313	135	89	93	1,072
	Interest Expense-Other Total			1,883	1,900	1,703	2,084	1,487	1,443	10,500
-	Other Tax Expense									
	Taxes and Licenses			0	11,012	1,497	5,375	42,838	0	60,722
	Other Tax Expense Total			0	11,012	1,497	5,375	42,838	0	60,722
	Expenses Total			141,393	169,672	164,092	196,109	212,517	270,791	1,154,574

2	<b>CRAPP EXCAVATING, LLC</b>					Budget	Budget	Budget	Budget	Budget	Budget	
3	<b>2017 Cash Budget</b>					5/1/2017	6/1/2017	7/1/2017	8/1/2017	9/1/2017	10/1/2017	Calculated
4						5/31/2017	6/30/2017	7/31/2017	8/31/2017	9/30/2017	10/31/2017	Total
5	-	<b>Revenue</b>										
6	-	<b>Gross Receipts or Sales</b>										
7			Custom Work			34,600	117,395	1,611	92,738	126,035	98,101	470,480
8			Tiling Revenue			1,500	0	1,500	0	0	0	3,000
9			<b>Gross Receipts or Sales Total</b>			<b>36,100</b>	<b>117,395</b>	<b>3,111</b>	<b>92,738</b>	<b>126,035</b>	<b>98,101</b>	<b>473,480</b>
10	-	<b>Expenses</b>										
11	-	<b>Labor Expense</b>										
12			Labor Benefits Life Insurance			101	101	101	101	101	101	606
13			Labor Wage Expense			17,123	13,578	12,847	17,103	14,207	19,600	94,458
14			<b>Labor Expense Total</b>			<b>17,224</b>	<b>13,679</b>	<b>12,948</b>	<b>17,204</b>	<b>14,308</b>	<b>19,701</b>	<b>95,064</b>
15	-	<b>Pension &amp; Profit Sharing Plans</b>										
16			Labor Benefits Pension Expense			270	281	250	300	255	491	1,847
17			<b>Pension &amp; Profit Sharing Plans Total</b>			<b>270</b>	<b>281</b>	<b>250</b>	<b>300</b>	<b>255</b>	<b>491</b>	<b>1,847</b>
18	-	<b>Payroll Taxes</b>										
19			Labor FUTA Taxes			0	0	0	0	0	0	0
20			Labor Payroll Taxes			1,096	1,411	869	1,132	1,301	1,027	6,836
21			Labor SUTA taxes			0	0	1,801	0	0	1,089	2,890
22			<b>Payroll Taxes Total</b>			<b>1,096</b>	<b>1,411</b>	<b>2,670</b>	<b>1,132</b>	<b>1,301</b>	<b>2,116</b>	<b>9,726</b>
23	-	<b>Fuel Expense</b>										
24			Fuel Expense			7,600	7,600	7,600	7,600	7,600	7,600	45,600
25			<b>Fuel Expense Total</b>			<b>7,600</b>	<b>7,600</b>	<b>7,600</b>	<b>7,600</b>	<b>7,600</b>	<b>7,600</b>	<b>45,600</b>
26	-	<b>Insurance Expense</b>										
27			Insurance - Equipment			593	593	593	593	593	593	3,558
28			Insurance - Liability			655	655	655	655	655	655	3,930
29			Insurance - Worker's Comp			602	602	602	602	602	602	3,612
30			<b>Insurance Expense Total</b>			<b>1,850</b>	<b>1,850</b>	<b>1,850</b>	<b>1,850</b>	<b>1,850</b>	<b>1,850</b>	<b>11,100</b>
31	-	<b>Marketing Expense</b>										
32			Marketing			170	170	170	170	170	170	1,020
33			<b>Marketing Expense Total</b>			<b>170</b>	<b>170</b>	<b>170</b>	<b>170</b>	<b>170</b>	<b>170</b>	<b>1,020</b>
34	-	<b>Professional Services Expense</b>										
35			Professional Services			4,730	2,593	0	41,041	11,438	20,235	80,037
36			<b>Professional Services Expense Total</b>			<b>4,730</b>	<b>2,593</b>	<b>0</b>	<b>41,041</b>	<b>11,438</b>	<b>20,235</b>	<b>80,037</b>
37	-	<b>Rent / Lease Expense (Veh.Mach.&amp; Equipment)</b>										
38			Rent Equipment			0	0	0	4,446	14,635	3,447	22,528
39			Rent Lease			1,788	1,788	1,788	1,788	1,788	1,788	10,728
40			<b>Rent / Lease Expense (Veh.Mach.&amp; Equipment) Tot</b>			<b>1,788</b>	<b>1,788</b>	<b>1,788</b>	<b>6,234</b>	<b>16,423</b>	<b>5,235</b>	<b>33,256</b>
41	-	<b>Repair / Maintenance Expense</b>										
42			Repair-Equipment			6,474	9,873	13,494	8,940	9,176	10,000	57,957
43			<b>Repair / Maintenance Expense Total</b>			<b>6,474</b>	<b>9,873</b>	<b>13,494</b>	<b>8,940</b>	<b>9,176</b>	<b>10,000</b>	